



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.  
Secretary of Natural Resources

**West Central Regional Office**  
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Robert G. Burnley  
Director

Steven A. Dietrich  
Regional Director

### COMMONWEALTH OF VIRGINIA WASTE MANAGEMENT BOARD CONSENT ORDER ISSUED TO CRAWFORD EXCAVATING, INC.

#### **Section A: Purpose**

This is a Consent Order issued under the authority of § 10.1-1182, 10.1-1184, and 10.1-1455(G) of the Code of Virginia (1950), as amended, by the Virginia Waste Management Board to Crawford Excavating, Inc. to resolve certain violations of environmental laws and/or regulations.

#### **Section B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Code" means the Code of Virginia (1950), as amended.
2. "Waste Board" means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code §10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a consent order.
6. "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10 *et seq.*
7. "Crawford Excavating, Inc." or "Crawford" means Crawford Excavating, Inc, a Virginia corporation certified to do business in Virginia on December 12, 1980 and located at 185

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Parford Lane, Moneta, Virginia.

8. "Site" means the property located on Route 616 in Franklin County, Virginia.
9. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.

**Section C: Findings of Fact and Conclusions of Law**

1. V. T. Crawford is the owner and operator of Crawford Excavating, Inc. Through Crawford Excavating, Inc., Mr. Crawford has disposed of various "solid waste" as that term is defined in Va. Code 10.1-14000. Most of the solid waste disposed is wood waste from land clearing activities generated off-site and demolition debris from construction activities.
2. Crawford does not have a permit from DEQ to dispose of solid waste at the Site.
3. On June 7, 1994, DEQ received an anonymous complaint regarding the Site. DEQ conducted a site inspection on July 26, 1994 with Mr. Crawford present. During the inspection, DEQ advised Mr. Crawford that the Site was out of compliance with the Virginia Solid Waste Management Regulations because Crawford had disposed of solid waste without a permit.
4. The Department issued a Warning Letter to Mr. Crawford on August 31, 1994, which cited Mr. Crawford for apparent violations of the Virginia Code, as follows:
  - § 10.1-1408.1.A - Operation of a facility for the disposal, treatment, or storage of non-hazardous solid waste without a permit from the Director or the Department.
  - § 10.1-1408.G - No person may allow waste to be disposed of on his property without a permit.
5. Mr. Crawford responded to the August 31, 1994 letter, in writing, on September 2, 1994. Mr. Crawford stated in the letter that he had closed the Site but would continue to use the site to store materials and soils, as needed.
6. On December 28, 1999, DEQ received an anonymous complaint that Crawford was operating a disposal site for land clearing debris. The complainant also stated that Crawford generated the waste off-site. In addition to land clearing debris, Crawford had also disposed construction/demolition waste at the Site. The complaint alleged that Crawford burned the waste at the Site. Based on this complaint, DEQ inspected the Site on February 9, 2000. At the time of the inspection, DEQ observed a large amount of land clearing waste at the Site.
7. On April 13, 2001, DEQ received another anonymous complaint regarding the Site. In response to the complaint, DEQ conducted a site inspection on April 13, 2001.
8. The Department continued to monitor the Site. However, Mr. Crawford continued to use the Site to dispose land clearing debris without having a permit. DEQ again inspected the Site

on February 8, 2002.

9. On March 12, 2002, the Department sent a letter to Mr. Crawford asking him to remove and properly dispose of the land clearing debris within thirty days.
10. On July 2, 2002, DEQ inspected the Site again. At the time of the inspection, DEQ observed a substantial amount of the land clearing debris had been removed and there was no evidence of open burning. However, a pile of refuse containing materials such as a mattress, garbage, PVC pipe and plastic was observed.
11. On May 27, 2004, a site visit was conducted in response to a complaint. The Department has determined from the visit, that Mr. Crawford continues to utilize the Site for a staging area for land clearing debris generated off-site. Mr. Crawford may also be conducting a filling operation at the Site, as observed by the inspector.
12. On June 18, 2004, the Franklin County Public Safety officer, Mr. Christopher Slempp, informed the Department that Mr. Crawford had disposed of wood waste by open burning during the week of June 7, 2004.
13. On June 24, 2004, the Department issued a Notice of Violation to Mr. V.T. Crawford for accumulating solid waste at the Site and then disposing of the solid waste by open burning contrary to 9 VAC 25080-80 and 90.
14. DEQ staff met with Mr. Crawford on July 15, 2004. Mr. Crawford agreed in the meeting to cease storing solid waste (land clearing debris) at the Site and cease open burning at the site. Further Mr. Crawford agreed to pursue a permit to operate a transfer station for processing land clearing debris.

#### **Section D: Agreement and Order**

By virtue of the authority granted it pursuant to Va. Code §10.1-1455 , and upon consideration of Va. Code § 10.1-1186.2, the Board orders Crawford, and Crawford agrees, to perform the actions described below and in Appendix A of this Order. In addition, the Board orders Crawford, and Crawford voluntarily agrees, to pay a civil charge of Three Thousand One Hundred Fifty Dollars (\$3,150.00) within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

The payment shall include Crawford's Federal ID number.

**Section E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Crawford for good cause shown by Crawford, or on its own motion after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. For the purposes of this Order and subsequent actions with respect to this Order, Crawford admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Crawford consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of the Order.
5. Crawford declares that it has received fair and due process under the Administrative Process Act, Code §§ 2.2-4000 *et seq.* and the Virginia Waste Management Act, Code §§ 10.1-1400 *et seq.* and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board or the Director to modify, rewrite, amend, or enforce this Order, or any subsequent deliverables required to be submitted by Crawford and approved by the Department, without consent of Crawford.
6. Failure by Crawford to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall act to waive or bar the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Crawford shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, or other acts of

God, war, strike, or other such occurrences. Crawford must show that such circumstances resulting in the noncompliance were beyond its control and were not due to a lack of good faith or diligence on its part. Crawford shall notify the Director and the Director of the Department's West Central Regional Office ("WCRO") in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Director and the Director of the Department's West Central Regional Office in writing within 24 hours of learning of any condition above, which Crawford intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director of the Department of Environmental Quality or his designee and Crawford. Notwithstanding the foregoing, Crawford agrees to be bound by any compliance date that precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. Crawford petitions the Director or his designee to terminate the Order after it has completed all requirements of the Order and the Director or his designee approve the termination of the Order; or
  - b. The Director or Board terminates this Order in his or its sole discretion upon 30 days written notice to Crawford.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Crawford from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

11. By the signature of Mr. V.T. Crawford, Crawford Excavating, Inc. voluntarily agrees to the issuance of this Order.

Steven A. Dietrich Date: 12-1-04  
for Robert G. Burnley, Director  
Department of Environmental Quality

Seen and Agreed to:

V.T. Crawford  
Crawford Excavating, Inc. by Mr. V. T. Crawford

The foregoing instrument was acknowledged before me on 10/20/04

By Mr. V.T. Crawford, President of Crawford Excavating, Inc., in the City of Roanoke,  
Commonwealth of Virginia.

Ken Hilton  
Notary Public

My Commission expires: 1/31/08

**APPENDIX A –SCHEDULE OF COMPLIANCE**

Crawford shall:

1. Immediately cease and desist from using the site to store land clearing debris and other solid waste.
2. Immediately cease and desist from open burning land clearing debris and other solid waste at the site for purposes of disposal.
3. Not accumulate vegetative waste speculatively.
4. Manage vegetative waste so as to not create an open dump, hazard, or public nuisance, in accordance with 9 VAC 20-80-160.C.
5. Within **30 days** of the effective date of the Order, properly dispose of all solid waste located at the site.
6. Within **45 days** of the effective date of the Order, provide to the Department proper documentation of the proper disposal of all solid waste located at the site.
7. **90 days prior** to the start of development activities at any proposed land clearing management site, provide to the Department an approvable Operating Plan for the alternate land clearing management site. The Operating Plan should include the following:
  - a. Plan for storage and treatment units. Units shall be designed to reduce the potential for fires and migration vectors, protect the unit from surface run-on, and prevent the escape of wastes, odors, dust and litter from the site.
  - b. Housekeeping
  - c. Vector control
  - d. Odor control
  - e. A description of wastes that will be managed, stored, and treated.
  - f. Treatment plan for wastes
  - g. Emergency plan (fire control plan)
  - h. Site plan